

STANDARD APPLICATION
Harford County
Board of Appeals
Bel Air, Maryland 21014

RECEIVED

AUG 12 2005

HARFORD COUNTY COUNCIL

Case No. 5511
Date Filed 8/4/05
Hearing Date _____
Receipt _____
\$ 150.00

Shaded Areas for Office Use Only

Type of Application

- ☐ Administrative Decision/Interpretation
☐ Special Exception
☐ Use Variance
☐ Change/Extension of Non-Conforming Use
☐ Minor Area Variance
☐ Area Variance
☒ Variance from Requirements of the Code
☐ Zoning Map/Drafting Correction

Nature of Request and Section(s) of Code 267-8

CASE 5511 MAP 36 TYPE Variance

ELECTION DISTRICT 02 LOCATION 207 Darlington Road, Havre de Grace

BY Marian J. Dodson and Harry Argentino

Appealed because variance pursuant to Sec. 267-24B (1) of the Harford County Code
to allow a fence to exceed 4' in height (6' proposed), within the front yard setback in the
AG district requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Owner (please print or type)

Name MARIAN J. DODSON Phone Number 410-734-4805
Address 207 DARLINGTON ROAD Havre de Grace MD 21078
Street Number Street City State Zip Code

Co-Applicant HARRY ARGENTINO Phone Number 410-734-4805
Address 207 DARLINGTON ROAD Havre de Grace MD 21078
Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____
Address _____
Street Number Street City State Zip Code

Attorney/Representative _____ Phone Number _____
Address _____
Street Number Street City State Zip Code

Land Description

Address and Location of Property 207 DARLINGTON Road, Havre de Grace

Subdivision N/A Lot Number N/A

Acreage/Lot Size 2.34 Acre Election District 02 Zoning AG

Tax Map No. 36 Grid No. 3E Parcel 193 Water/Sewer: Private ☒ Public ☐

List ALL structures on property and current use: 1) House - PRIMARY RESIDENCE 2) Shed - Storage

Estimated time required to present case: 30 minute

If this Appeal is in reference to a Building Permit, state number _____

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes ☐ No ☒

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes ☒ No ☐

Is this request within one (1) mile of any incorporated town limits? Yes ☐ No ☒

Request

SEE ATTACHED

Justification

SEE ATTACHED

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

Reasons for Requesting Zoning Exemption for 6' Fence

A. Property Layout

Because of the unusual layout of the property, the house is located on the only flat area in the 2-1/4 acre parcel. The driveway leading to the front of the house comes in off Darlington Rd but the house actually faces Moxley Rd. There is a steep ravine and a small stream between the house and Moxley Rd., making it impossible to enter from that direction. The side of the house that faces Darlington Road (Rt. 161) and the fence in question runs at an angle at the rear. It is sited upon an 8'-12' bank which rises above the road. The bank is completely overgrown hiding the fence from view except for a couple small areas.

B. Sound Abatement

When we first moved into the house, Rt. 161 (Darlington Rd.) was a quiet country road. Shortly thereafter, the tolls were raised on both the Rt. 95 and Rt. 40 bridges over the Susquehanna River. Within several months, the traffic on our quiet road noticeably increased, and came complete with logging trucks, 18-wheelers, milk trucks, heavily loaded dump trucks, and box vans trying to avoid both the tolls and the scales. Although the posted speed is 40 MPH, lavish use of jake brakes on the hill directly in front of us attest to the fact that many of these vehicles are travelling way in excess of that. (Note: We have contacted the Harford County Sheriff's Dept. regarding these speed issues and have offered the use of our driveway to them for enforcement activities.) It has become quite noisy starting around 5 AM. A similar increase in regular commuter traffic also occurred although higher gas prices may have lessened this a little. The fence with its accompanying vegetation provides at least some relief from the constant traffic sights and sounds. As our plans for this area include an outdoor relaxation area with a hammock and some comfortable chairs and small tables; a reading nook off the sewing room; and both vegetable and flower gardens, it would be nice if we could reduce the noise a little.

C. Neighborhood Impact

We understand that the intent of the 4' fence rule is to provide an unobstructed view and also to standardize the look of the neighborhood. As far as the view is concerned, with the house set back from a bank of increasing height, it probably can't be seen from the road no matter what height the fence is. It is not located in a sub-division; in fact, there are no other houses for at least 1/4 mile to the north

and our property continues to the corner of Darlington and Moxley to the south. There are no houses opposite us; in fact, there is only a working farm field. The 6' fence was originally erected in the summer of 1972 when Hoyt Moxley owned the property (as a rental) and to our knowledge has not been the subject of any complaint originating in the neighborhood.

D. Special Needs

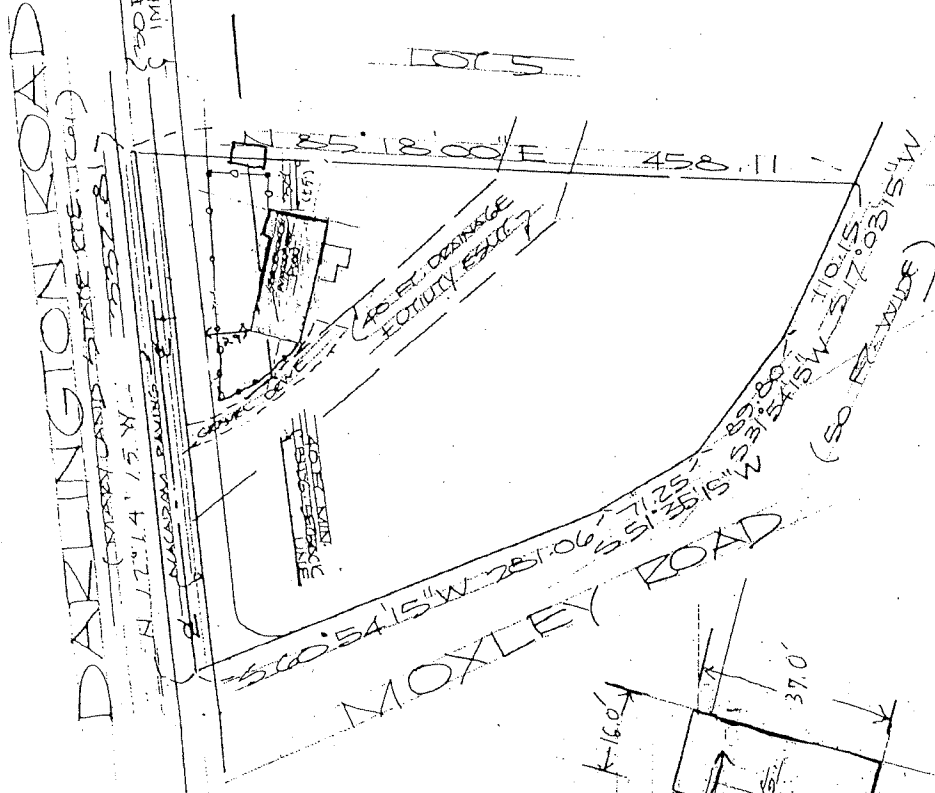
We are the owners of a very nice dog that was adopted from the Humane Society on Connelly Road in Fallston. While Pal is beautiful and loving, he is also epileptic and brain-injured and perfectly capable of jumping a less than 6' fence. A 4' fence would give him no protection from the traffic, as he is not capable of recognizing dangerous situations. Having a fence tall enough to contain him would give this poor animal a chance to enjoy the outdoors and get the exercise that a 125-pound extremely hyper dog requires. He is unable to learn to properly walk on a leash so this is not an option. While he is currently not allowed outdoors unsupervised, it would be nice to be able to let him, and our other dog, spend some time playing outdoors together on their own.

E. Closing Statement

207 Darlington Road was in foreclosure when we purchased it and showed many signs of the years of neglect it suffered. The area around the house required three large dumpster loads to clean up the trash from the former residents and removing years of garbage from the woods and stream took many hours of time from both us and our two children. We have poured tens of thousands of dollars into upgrading the house and property to make it something the community can be proud of and not the eyesore it has been for many years. We ask that we be allowed to complete the replacement of the derelict fence that was standing when we first moved onto the property. Please let us maintain the fence that is already in place and that isn't offending anyone and hasn't done so in over thirty years. Thank you.

This property is not located in a FLOOD identified Special Flood Hazard Area. Flood Hazard Map Interpretation though believed accurate is not guaranteed.

NOTE -
PORTION OF DWELLING EXTENDS BEYOND 40 FOOT MINIMUM BUILDING SETBACK LINE



KNOWN AS -
LOT 6, PLAT OF LANDS OF HOYT MOXLEY, TRAT BOOK SEG. NO. 20, FOLIO 8

- 1) This plat is of benefit to a consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or re-financing.
- 2) This plat is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements.
- 3) This plat does not provide accurate identification of property boundary lines but such identification may not be required for the transfer of title or securing financing or re-financing.

This is to certify that this drawing meets the Minimum Standards of Practice of the State of Maryland.

ENLARGED IMPROVEMENT PLAN
SCALE: 1" = 30'

All setback dimensions are + or - foot unless otherwise noted.

REG. NO. 135

DRAWING REVISED 1/13/05



LOCATION DRAWING
207 DARLINGTON ROAD, HARE G, MD.

OFFICE OF
MANK & KUNST
POST OFFICE BOX 5448
TOWSON, MARYLAND 21285

SCALE
1" = 100'
DATE
8/11/03
JOB NO.
1074/03

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



ANTHONY S. McCLUNE
ACTING DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

September 14, 2005

STAFF REPORT

BOARD OF APPEALS CASE No. 5511

APPLICANT/OWNER: Marian J. Dodson
207 Darlington Road, Havre de Grace, Maryland 21078

Co-APPLICANT: Harry Argentino
207 Darlington Road, Havre de Grace, Maryland 21078

REPRESENTATIVE: Applicants

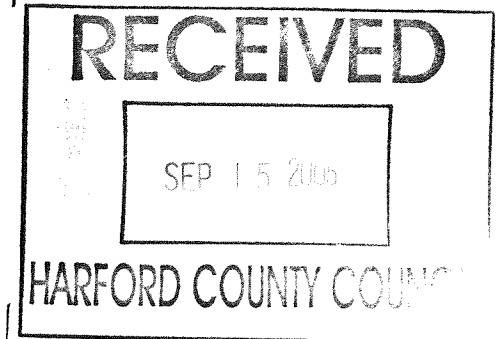
LOCATION: 207 Darlington Road
Tax Map: 36 / Grid: 3E / Parcel: 193
Election District: Second (2)

ACREAGE: 2.24 acres

ZONING: AG/Agricultural

DATE FILED: August 8, 2005

HEARING DATE: September 26, 2005



APPLICANT'S REQUEST and JUSTIFICATION:

See ATTACHMENT 1.

CODE REQUIREMENTS:

The Applicants are requesting a variance pursuant to Section 267-24B(1) of the Harford County Code to allow a fence to exceed 4-feet in height (6-feet proposed), within the front yard setback in the AG/Agricultural District.

Preserving Harford's past; promoting Harford's future

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Board of Appeals Case Number 5511

Marian Dodson & Harry Argentino

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Section 267-24B(1) of the Harford County Code reads:

B. Fences and walls. Fences and walls may be located in required yards in accordance with the following:

(1) Front yards. For single-family detached units, walls and fences shall not exceed four feet in height above ground elevation. Where fences and walls are an integral part of the unit design and are applied in a consistent pattern throughout the project, fences and walls may be constructed to a maximum of six feet about ground elevation. For continuing care retirement communities, consistent and coordinated fencing or walls may be constructed to a maximum of eight feet above ground elevation provided strategically located gates are provided for emergency access.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicant's property is located on the east side of Darlington Road (MD Route 161) north of Rock Run Road. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3).

The subject property is located outside of the Development Envelope. The property is in an area where the predominant land use designation is Agricultural. The Natural Features Map reflects Parks, Rural Legacy Area, Agricultural Preservation Districts and Easements. The subject property is designated as Agricultural which is defined by the 2004 Master Plan as:

Agricultural – Areas where agriculture is the primary land use, but where development rights are available. Residential development is possible at a density of 1.0 dwelling unit for every 10 acres. Commercial uses within this area are intended to serve the agriculture industry or residents of the area while maintaining the character of the surrounding countryside.

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 4 and 5).

Land Use – Existing:

The existing land uses in this area of the County conform to the overall intent of the 2004 Master Plan. The predominant land use in the immediate area is Agricultural which includes cropland, pastureland and large areas of dense woodland. There are also scattered residential dwellings throughout the area. The topography of the area ranges from rolling to steep especially in the area of Deer Creek to the north, the Susquehanna River to the east and their many tributaries. A

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topography map and a copy of the aerial photograph are enclosed with the report (Attachments 6 and 7).

As previously stated the subject property is located on the east side of Darlington Road (MD Route 161) and on the north and west sides of Moxley Road, which is a private right-of-way. The property is irregular in shape and approximately 2.24-acres in size. The lot sits approximately 20 feet above the road bed of Darlington Road. A majority of the property is densely wooded with improvements consisting of a frame one-story dwelling presently under renovation. There is an attached garage to the right of the dwelling and a shed on the left side. The shed is to be moved to an area to the rear of the dwelling. The rear of the dwelling faces Darlington Road. Running through the property just to the rear of the improvements is a 40-foot drainage and utility easement. The topography ranges from rolling to steep. There is a level area approximately 50-foot in depth at its widest point out to the rear of the dwelling and then it drops sharply downward approximately 30 feet or more to the bottom of the swale. It then rises sharply up again to Moxley Road bordering the south and east sides of the subject property. The driveway has a gravel surface leading back from Darlington Road to a parking and turning area in front of the garage. Because of the vegetation along the front of the property and elevation difference above the road the fence is almost completely hidden. The fence does not impact sight distance on MD Route 161. Enclosed with the report are site photographs along with an enlargement of the aerial photograph (Attachments 8 and 9).

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. The predominant zoning classification in this area of the County is AG/Agricultural. There are also areas of RR/Rural Residential. There is an area of B2/Community Business in the crossroads of Level and B1/Neighborhood Business on Level Road (MD Route 155). The subject property is zoned AG/Agricultural as shown on the enclosed copy of the Zoning Map (Attachment 10).

Zoning Enforcement:

The Department of Planning received a complaint on October 28, 2004, that a 2-car attached garage, a fence along Darlington Road, and interior renovations were being built without permits.

An inspection was conducted on November 3, 2004 which revealed that the dwelling was undergoing renovations, a detached garage had been constructed, and a 6 foot wooden fence across the front of the property (to the rear of the dwelling) had been constructed. It did not appear that the shed would meet setbacks. A notice to cease was issued. A letter of the inspector's findings was sent on November 10, 2004. Meetings were held in the Planning Department with the Applicants prior to submittal of the Board of Appeals Applications. Enclosed with the report are copies from the inspection file for informational purposes only (Attachment 11).

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SUMMARY:

The Applicants are requesting a variance pursuant to Section 267-24B(1) of the Harford County Code to allow a fence to exceed 4-feet in height (6-feet proposed), within the front yard setback in the AG/Agricultural District.

Section 267-24B(1) of the Harford County Code reads:

B. Fences and walls. Fences and walls may be located in required yards in accordance with the following:

- (1) Front yards. For single-family detached units, walls and fences shall not exceed four feet in height above ground elevation. Where fences and walls are an integral part of the unit design and are applied in a consistent pattern throughout the project, fences and walls may be constructed to a maximum of six feet about ground elevation. For continuing care retirement communities, consistent and coordinated fencing or walls may be constructed to a maximum of eight feet above ground elevation provided strategically located gates are provided for emergency access.*

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

The Department finds that the subject property is unique. The property is irregular in shape and has severe changes in topography. There is a 40 foot wide drainage and utility easement traversing the property very close to the dwelling. The lot sits approximately 20 feet above the elevation of the road bed of Darlington Road. The only useable area of the lot is the area immediately around the dwelling. The fence, which is the subject of this case, is a replacement of the original fence. The fence has no impact on traffic along Darlington Road.

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the requested variance for the height of the fence be approved subject to the following conditions:

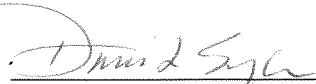
1. The Applicants obtain all necessary permits and inspections for the fence.
2. The shed shown on the site plan shall be moved onto the subject lot and to the rear of the front yard building setback line.

STAFF REPORT

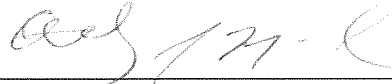
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Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review



Anthony S. McClune, Acting Director
Department of Planning and Zoning

DJS/ASM/jf